No. 90-323

Supreme Court, U.S.
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In The

SUPREME COURT OF THE UNITED STATES

October Term, 1990

CARRIERS CONTAINER COUNCIL, INC.,

Petitioner,

vs.

MOBILE STEAMSHIP ASSOCIATION, INC. INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO PENSION PLAN AND TRUST, *et al.*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

RESPONDENTS' OPPOSITION TO MOTION FOR LEAVE TO FILE A BRIEF AMICUS CURIAE

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Respondent, Mobile Steamship Association, Inc.-International Longshoreman's AFL-CIO Pension Plan and Trust and its Trustees ("Mobile Pension Plan") oppose the Motion for Leave to File Brief *Amicus Curiae* filed by the International Longshoreman's Association ("ILA") for the following reasons.[1]

The ILA's Motion and Brief are no more than the ILA's part of a bargain with petitioner Carriers Container Council, Inc. ("CCC"). On May 24, 1988,

[1]The Mobile Pension Plan has no parent or subsidiary corporations. Supreme Court Rule 29.1.

CCC agreed to settle outstanding claims by certain local port plans and any claim by the ILA against CCC regarding the JSP Agreement.[2] The plans from the ports of Mobile and Philadelphia were not parties to the agreement of May 24, 1988.

As a part of the agreement of May 24, 1988, the ILA agreed to join with CCC in defending this case and the surplus case. The ILA subsequently intervened in the surplus case. Although the ILA did not intervene in this case, it now seeks to support CCC's position, as it agreed to do back in 1988, under the guise of an *amicus curiae*, a friend of the Court. The ILA is not a true *amicus curiae*.

The ILA's brief does nothing more than parrot CCC arguments, and it certainly does not include relevant matters which have not already been brought to the Court's attention by the parties. See Supreme Court Rule 37.1. The ILA's brief, like that of CCC, even goes beyond the record to claim that the lower courts' decisions have adversely affected collective bargaining.

The claims by CCC and the ILA are not, however, true. After the District Court's decision, the ILA negotiated a coastwide collective bargaining agreement which included a benefit program in the form of a jointly administered trust. In the current negotiations, yet another jointly administered employee benefit plan is proposed. There have been no unfavorable effects on negotiations.

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[2]The agreement of May 24, 1988 and circumstances surrounding its execution are described in the Petition for Certiorari Appendix A-5a and Appendix B-42a-43a.

The Motion for Leave to File *amicus curiae* Brief should be denied.

Respectfully submitted,

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